

Exhibit 3

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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USA BASEBALL, THE NATIONAL HIGH
SCHOOL BASEBALL COACHES ASSOCIATION,
DR. PETER BERG, JUAN HERNANDEZ, DENNIS
CANALE, MEL ZITTER, MICHAEL CRUZ, TITO
NAVARRO, JOHN TORRES, EASTON SPORTS,
INC., WILSON SPORTING GOODS CO.,
RAWLINGS SPORTING GOODS COMPANY, and
HILLERICH & BRADSBY CO.

Plaintiffs,

- against -

Civil Action No. 07-CV-3605

CITY OF NEW YORK,

Defendant.

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DECLARATION OF JIM DARBY

I, Jim Darby, depose and state as follows:

1. I am the Vice President of Promotions for Easton Sports, Inc. ("Easton"). As part of my job responsibilities, I frequently meet with players and coaches to promote Easton's premier top selling metal and non-wood composite bats. If sworn as a witness, I could testify competently to the facts contained herein.

2. In connection with my interaction with baseball coaches, I study the offensive statistics posted each year so that I am familiar with the state of the game.

3. In the mid 90s, many coaches and NCAA officials were concerned that the high performing metal bats were leading to offensive levels greater than what the coaches desired. Accordingly, the NCAA, through the formation of a panel of leading scientists and coaches, passed the bat exit speed ratio, or "BESR" rule, and also restricted the bat diameter (the hitting surface of the bat), and the bat length to weight ratio.

4. The exit speed, diameter, and weight regulations were adopted by the National Federation of State High School Associations ("NFHS") soon afterward. The NFHS enforces these rules in the same way as the NCAA.

5. In addition to the NCAA and the NFHS, Little League and numerous softball organizations also regulate bat exit speed.

6. These regulations have had a significant impact on the performance of the metal and composite bats sold by all manufacturers. While offensive statistics at the high school level are not generally available, the NCAA offensive statistics are compiled every year. These statistics illustrate the effect the bat regulations have had.

7. For example, in 1998, the year before the above regulations were adopted, the batting average for the NCAA Division 1 programs as a whole was .306. Moreover, there were an average of 1.06 home runs per game, and 7.12 runs per game.

8. After the NCAA regulations were adopted, the batting average dropped to .296, home runs per game dropped to 0.81, and runs per game dropped to 6.44

9. These lower offensive numbers have been consistent in the last five years. The most recent statistics show that the overall batting average is .291, home runs per game are .68, and runs per game are 6.15.

10. In my experience, the reaction to the offensive balance resulting from the regulation of metal and non-wood bats has been overwhelmingly positive. The coaches with whom I have met are nearly unanimous in their satisfaction with the current state of offense in NCAA play.

I declare under penalty of perjury that the foregoing is true and correct.

This 28th day of May, 2007.


JIM DARBY